IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR. JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 2122 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 29/11/2004 in WP NO : 20616 OF 2004 on the file of the High Court.)

Between:

JC-747889-N Sub Major Indra Deo Rai S/o.Sri Harinath Rai, aged 52 years, Occupation: Army Service, 3 TRG BN Secunderabad (AP).

APPELLANT

AND

1 The DG EME Army HQ New Delhi.
2 Officer in Charge EME Records & The Commandant,
1 EME Centre, Secunderabad (AP).
3 The Commanding Officer 3 Training Battalion, 1 EME Centre, Secunderabad (AP).
4 IC-49379-Y LT COL ASHOK KUMAR 2nd in Command,3 Training Batalion, 1 EME Centre, Secunderabad A.P.
5 The Commanding Officer 627 EME Battalion, C/o.56 APO.

RESPONDENTS

Counsel for the Appellant: MR.CAPT.K.M.SAXENA

Counsel for the Respondents: MR.ARAJASHEKAR REDDY (SC FOR CG)

The Court made the following :

JUDGMENT: (Per the Honourable Sri Justice S.Ananda Reddy)

This writ appeal is filed by the petitioner aggrieved by the order of the learned single Judge by which, the transfer effected against the petitioner was upheld by the learned single Judge.

The appellant herein is the writ petitioner. It is the case of the petitioner that he had been transferred from the field station to the peace station (Secunderabad) i.e., E.M.E. center, Secunderabad by proceedings issued in August 2002 and had completed two years of service. Thereafter, the impugned proceedings were issued reposting the petitioner to the field station. The main grievance of the petitioner is that he is due for retirement by 30.9.2005. Therefore, he shall not be disturbed from the peace station i.e., E.M.E. to the field station for the reason that he was left with less than two years of service before retirement.

According to the learned counsel, the contentions raised by the petitioner have not been considered properly by the learned single judge and therefore, the order of the learned single Judge as well as the order impugned, are liable to be set aside.

The learned Standing counsel appearing for the Central Government supported the order of the learned single Judge.

Heard the learned counsel for both the parties and considered the material on record.

The petitioner sought to rely upon paragraph 47 of the E.M.E. record of office instructions, which deals with the posting of personnel especially before retirement. The contention of the learned counsel for the petitioner, is that as per the said paragraph, the postings will be planned in such a way that they get approximate two years tenure with last unit before retirement. However, the learned Standing counsel contended that the said paragraph-47 has been amended by E.M.E. ROI 2/94, dated 27.2.2001 and by the amended provision, the following paragraphs are substituted to the existing paragraph 47:

(a)Posting will be planned in such a way that they get approximate two years tenure with last unit.

(b) They will neither be posted to ERI nor LRW/UROs.

(c) An individual who has availed a posting on comp gds in terms of para 30 of ibid ROI is not eligible to apply for last leg posting on comp gds.

(d)Sub Major especially those who are due for posting to Fd areas on second spell will not be given choice posting to peace station on their last leg of service.

However, the learned counsel for the petitioner disputes as to the above amended provisions though a copy of the amendments, which was certified by the Major, are filed.

In view of the said amendments and in view of the fact that he had already enjoyed the posting at peace station for a period of two years viz., at E.M.E. Center, Secunderabad, he was shifted to the Field work under the impugned order .

The learned single Judge after considering the amended provisions as well as the facts of the case, has rightly rejected the contention of the learned counsel for the petitioner. We, therefore, do not find any merit warranting any interference with the impugned order as well as the order of the learned single Judge.

Accordingly, this appeal is dismissed as devoid of merits.

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Justice T.Meena Kumari

17th February, 2005

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Justice S.Ananda Reddy

Gurc.

Copies to:

1 The DG EME Army HQ New Delhi.
2 Officer in Charge EME Records & The Commandant,
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5 The Commanding Officer 627 EME Battalion, C/o.56 APO.

6. Two C.D. copies.

HONOURABLE SMT. JUSTICE T.MEENAKUMARI

&

HONOURABLE SRI JUSTICE S.ANANDA REDDY

WRIT APPEAL No:2122 of 2004

(Judgment delivered by Sri. S.Ananda Reddy)

17th February, 2005